

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

MENTE GROUP LLC,
Plaintiff,

v.

ARNELL ENTERPRISES, INC.,
Defendant.

Case No. [20-cv-07459-VKD](#)

**ORDER GRANTING PLAINTIFF'S
MOTION TO COMPEL POST-
JUDGMENT DOCUMENT
PRODUCTION**

Re: Dkt. No. 60

Plaintiff and counter-defendant Mente Group LLC (“Mente”) moves for an order requiring defendant and counter-claimant Arnell Enterprises, Inc. (“Arnell”) to produce documents responsive to Mente’s post-judgment document requests.¹ Dkt. No. 60. The Court finds Mente’s motion suitable for decision without oral argument. Civil L.R. 7-1(b).

For the reasons explained below, the Court grants Mente’s motion to compel.

I. BACKGROUND

On January 3, 2022, the Court granted partial summary judgment in favor of Mente on: (1) Mente’s claim against Arnell for breach of contract; (2) Arnell’s counterclaim for breach of contract; (3) Arnell’s counterclaim for slander of title; and (4) Arnell’s affirmative defenses of failure to mitigate damages, assumption of risk, estoppel, statute of limitations, set off, laches, waiver, unclean hands, and lack of notice. Dkt. No. 46 at 16. The Court found that Mente was entitled to recover actual damages from Arnell in connection with Mente’s breach of contract

¹ The parties did not comply with this Court’s standing order regarding the submission of discovery disputes for resolution, but instead briefed the matter as a regularly noticed motion. Future requests for resolution of discovery disputes must comply with the Court’s standing order.

claim in the amount of \$164,147.96. Dkt. No. 46 at 15. The Court dismissed the remaining claims as moot on February 11, 2022 and entered judgment. Dkt. Nos. 50, 51. On September 22, 2022, the Court granted Mente's motion for an award of \$233,627.22 in attorneys' fees and \$6,127.10 in costs. Dkt. No. 59. Arnell presently owes Mente a total of \$403,902.28, exclusive of interest. *See* Dkt. No. 60 at 1.

On October 28, 2022, Mente served requests for production of documents on Arnell. Mente says the purpose of this discovery is to identify Arnell's assets so that Mente can use that information to collect on the judgment and fees/costs award. Dkt. No. 60 at 1. Arnell has produced some responsive documents, but Mente contends that the production is incomplete. *Id.* at 1-2. Mente moves to compel Arnell's production of documents responsive to the following document requests: RFPs 4-9, 12, 14, 20, 21, 23, 27, 32, 34, 40, 44, 45, 56, 60, 61, and 65. *Id.* at 3-7. Mente also asks the Court to award attorneys' fees under Rule 37(a)(5)(A). *Id.* at 10. Arnell opposes the motion, and asks the Court to deny it without prejudice so that the parties may confer further about Mente's requests and Arnell's production. Dkt. No. 61 at 1-2.

II. LEGAL STANDARD

Rule 69 of the Federal Rules of Civil Procedure provides that a judgment creditor "may obtain discovery from any person—including the judgment debtor—as provided in these rules or by the procedure of the state where the court is located" in aid of collecting on a judgment. Fed. R. Civ. P. 69(a)(2). Post-judgment discovery may be used to identify assets that can be used to satisfy a judgment or to discover concealed or fraudulently transferred assets. *See Ryan Inv. Corp. v. Pedregal de Cabo San Lucas*, No. C 06-3219 JWRS, 2009 WL 5114077, at *1 (N.D. Cal. Dec. 18, 2009).

III. DISCUSSION

In its motion, Mente explains that its document requests are directed to identifying Arnell's assets and potential transfers of assets that may be used to satisfy the judgment. Dkt. No. 60 at 7. Mente asks for an order requiring Arnell to produce documents responsive to requests as to which Arnell indicates it has no objection. *Id.* ("[T]his Motion does not seek to overrule Arnell's objections to any of the RFPs.").

1 In its two-page opposition to the motion, Arnell complains that Mente did not confer
2 adequately regarding the parties' dispute, and argues that its only assets are "a truck, a horse
3 trailer, the aircraft which is the subject of this litigation and a bank account." Dkt. No. 61 at 1-2.
4 Arnell does not otherwise respond to Mente's arguments that Arnell failed to produce all
5 documents responsive to the requests for production at issue, including requests seeking
6 information about Arnell's assets and transactions relating to those assets.

7 Mente has shown that Arnell failed to produce documents responsive to Mente's document
8 requests, without justification. The record also reflects that Arnell may have engaged in efforts to
9 transfer assets to avoid payment of the judgment. Arnell provides no justification for its failure to
10 comply with its discovery obligations. Mente engaged in reasonable efforts to resolve this dispute
11 informally with Arnell before filing a motion to compel. Accordingly, the Court will grant the
12 motion.

13 The Court denies Mente's request for an award of attorneys' fees, without prejudice. The
14 request for attorneys' fees is not adequately briefed. *See* Civil L.R. 54-5. Moreover, because the
15 parties did not use the Court's expedited discovery dispute resolution procedures, Mente likely
16 incurred some fees that could have been avoided. However, if Arnell fails to comply with this
17 order compelling document production and Mente must seek additional relief, the Court will
18 entertain a motion for attorneys' fees (including fees incurred in connection with this proceeding)
19 at that time.

20 **IV. CONCLUSION**

21 The Court grants Mente's motion to compel. Arnell must produce all documents in its
22 possession, custody, or control responsive to Mente's RFPs 4-9, 12, 14, 20, 21, 23, 27, 32, 34, 40,
23 44, 45, 56, 60, 61, and 65 by **March 24, 2023**, unless the parties stipulate to a different date.
24 Mente's request for an award of attorneys' fees is denied, without prejudice.

25 The hearing set for March 21, 2023 is vacated.

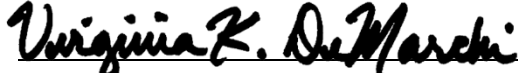
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IT IS SO ORDERED.

Dated: March 9, 2023


VIRGINIA K. DEMARCHI
United States Magistrate Judge

United States District Court
Northern District of California